

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

On January 10, 2007, the defendant made his initial appearance on a petition alleging violations of his probation. AUSA Scott Schneider appeared on the government's behalf and orally moved for detention of the defendant pending a hearing on his alleged probation violations. Assistant Federal Public Defender William Schmidt was appointed as defense counsel and appeared on the defendant's behalf.

With respect to the issue of detention, the court was advised that the State of Texas has lodged a detainer against the defendant. Thus, the defendant will likely remain in custody for the immediate future regardless of what action the court takes on the government's motion to detain. Defense counsel agreed that the filing of the detainer probably rendered a detention and preliminary hearing unnecessary at this time, but wanted more time to consider the matter and to check on the validity of the detainer. Consequently, rather than schedule a hearing, both the United States and the defendant agreed that the defendant would be held subject to the defendant filing a request for a preliminary and detention hearing if a hearing is desired prior to the hearing on the petition

The court **GRANTS** the government's motion for detention subject to the foregoing. The defendant may assert his right to a detention hearing and preliminary hearing by filing a motion. A

hearing on the defendant's petition is scheduled for January 22, 2007, at 10:00 a.m. in Bismarck, North Dakota, before Chief Judge Hovland.

It is **FURTHER ORDERED** that, pending the hearing on the defendant's petition, the defendant shall be committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultations with defense counsel. On order of a court of the United States or on request of an attorney for the government, the person in charge of the corrections facility shall deliver the defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

Dated this 10th day of January, 2007.

/s/ Charles S. Miller, Jr.
Charles S. Miller, Jr.
United States Magistrate Judge